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Deposited: April 7, 2003

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 / Ruth Montalvo Date: April 7, 2003

In the event that this paper is late filed and a necessary Petition for an Extension of Time is not concurrently filed herewith, please consider this as a Petition for the requisite extension of time, and to the extent not tendered by check attached hereto, authorization to charge the extension fee, or any other fee required in connection with this paper, to Deposit Account No. 50-1529.

Docket No.: GK-BAIDA-102/500764.20002

Customer No. 026418

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant : Nicholas F. Baida

Serial No. : 09/992,172 Group Art Unit: 2859

Filed : 14 November, 2001 Examiner: Hoolahan, A.

For : DEVICE AND METHOD FOR MAKING PRECISE MEASUREMENTS  
AND CUTS WITH A MEASURING TAPE

Commissioner for Patents  
Washington, D. C. 20231

**AFFIDAVIT UNDER 37 CFR 1.131**

Sir:

State of Oregon )  
 ) S.S.  
 )  
County of Josephine )

Nicholas F. Baida, being duly sworn, deposes and says:

1. I am the inventor of claims 1-15 of the patent application identified above and inventor of the subject matter described and claimed therein.
2. Prior to December 18, 2000, I had completed my invention as described and claimed in the subject application in this country, as evidenced by the following:
  - a. Prior to December 18, 2000, having earlier conceived of my invention and having reduced it to practice in a prototype, I approached Stanley Tools Corporation to see if they would be interested in signing a confidentiality agreement in order to discuss the possibility

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of manufacturing my invention while I retained the intellectual property rights. They replied on August 14, 2000, enclosed as exhibit A. They advised me that they only would consider any manufacturing agreement if a patent application was pending.

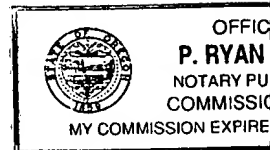
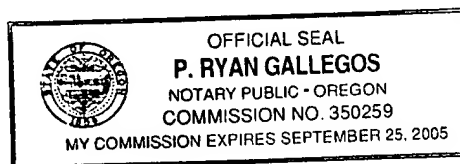
b. Prior to December 18, 2000 having earlier conceived my invention and reduced it to practice in a prototype, I approached the Perfect Measuring Tape Co. to inquire about prices of raw materials such as the measuring tape components of my device. They replied on August 29, 2000 (see exhibit b.), and they were also interested in signing a confidentiality agreement <sup>(c)</sup> to investigate the possibility of manufacturing my invention on my behalf while I retained the intellectual property rights.

Therefore, it is clearly evidenced that I conceived, and reduced my invention to practice, prior to December 18, 2000.

Sworn to and subscribed before me this 26 day of March 2003.

*Nicholas Barba*  
Nicholas Barba

*P. Ryan Gallegos*  
\_\_\_\_\_  
NOTARY PUBLIC



# Witnessing or Attesting a Signature

State of OREGON

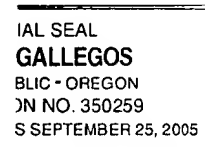
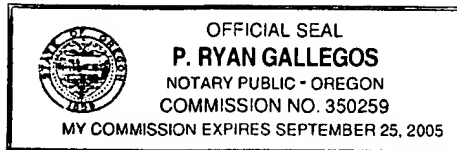
County of TACSON

Signed or attested before me on 26th March, 2003 by Nicholas F. Barba

P. Ryan Gallegos

Notary Public - State of Oregon

My commission expires: Sept 25, 2005



March 8, 2001

Mr. Nicholas F. Baida  
255 Woodbrook Drive  
Grants Pass, OR 07526

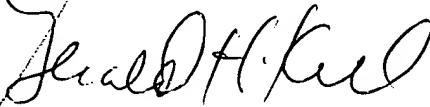
Re: New U.S. Patent Application  
Entitled: MARKING TAPE MEASURE  
Our Ref.: GK-BAIDA-102/500764. 20002

Dear Nick:

This is to acknowledge receipt of your \$1,500 retainer toward the preparation of a patent application on your marking tape measure invention.

We will keep you advised of the progress of the case.

Sincerely yours,



Gerald H. Kiel

GHK:jl

375 Park Avenue  
17th Floor  
New York, NY 10152-1799  
212.521.5400  
Fax 212.521.5450  
Delaware  
New Jersey  
New York  
Pennsylvania  
Virginia  
Washington, DC

reedsmith.com

# EXHIBIT A

Stanley Tools

Product Review Committee 480 Myrtle Street  
New Britain, CT 06053

Tel 860-827-5482  
Fax 860-827-5281



August 14, 2000

Mr. Nick Beta  
255 Woodbrook Drive  
Grantpath, Oregon 97526

Dear Mr. Beta:

Thank you for contacting us about your idea. It's always a pleasure to hear from a creative customer.

We are limited to considering suggestions that have been patented, or to ideas where a patent application has been filed. If you have received a patent on your idea, or if you have filed an U.S. patent application, we would be glad to evaluate your suggestion. If you have not applied for or received a patent, we will be unable to consider your suggestion.

If your idea meets these requirements, please get back in touch with us. We will send to you our Policy on Submitted Ideas, and we'll be glad to receive your submission by return mail.

Thank you for thinking of Stanley Tools.

Very truly yours,

Product Review Committee

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## EXHIBIT B



## THE PERFECT MEASURING TAPE CO

MANUFACTURERS OF MEASUREMENT, INVENTORY CONTROL & IDENTIFICATION SYSTEMS FOR TEXTILES

1116 SUMMIT ST. ■ TOLEDO, OHIO 43604, USA ■ (419) 243-6811 ■ FAX: (419) 243-8298 ■ TELEX: 673 0713 (PERFTAPECO)

August 29, 2000

Mr. Nick Baida  
255 Woodbrook Dr.  
Grants Pass, OR 97526

Dear Nick,


Enclosed, please find a sample "S" Series Tape Measure, for your examination.

To give you an idea on pricing, this tape is available in a 25-foot length and wholesales for \$3.60. Our 25-foot "Right to Left Read" tape wholesales for \$7.99. I would imagine that your tape would end up between those costs.

As soon as I receive the Confidentiality Agreement from your attorney, I will sign and return it so that we can begin discussions.

Until then, I send,

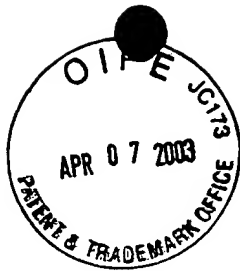
Kind Regards  
THE PERFECT MEASURING ATPE CO.

  
A. C. Bohrer  
General Manager

Encs.



## EXHIBIT C



**BOILER & KELLY**

A LAW FIRM ASSOCIATION

ATTORNEYS AND COUNSELORS AT LAW  
927 COUNTRY CLUB ROAD  
SUITE 175  
EUGENE, OR 97401  
Telephone: (541) 683-1901  
Facsimile: (541) 683-2774

JERREY H. BOILER, P.C.

PATRICK J. KELLY

OF COUNSEL

HERBERT G. EVANS, P.C.

September 22, 2000

BUSINESS MANAGER  
MARGARET A. BOILER

LEGAL ASSISTANT  
CAROL HUNNICUTT

**BY FACSIMILE ONLY (541) 955-0594**

Nick Baida  
1701 Foothill Boulevard  
Grants Pass, OR 97526

Re: Confidentiality Agreement

Dear Nick:

Transmitted by fax with duplicate originals following by express today is a form of confidentiality Agreement which I believe addresses all your present and future concerns in dealing with a third party for manufacture of the prototype we discussed, and for doing the market research as well.

I have drafted it with specific references designed to preserve all of your rights as "trade secrets" within the meaning of Oregon law and the Uniform Commercial Code as well. Most states, including Ohio, have a form of Uniform Commercial Code which is substantially similar to the form utilized in Oregon. The Code governs some aspects of this Agreement, including the implied covenants of good faith and fair dealing.

If you have no questions involving the form of Agreement, please let me know and I will be happy to forward duplicate originals for signature to Mr. Bohnengel. A draft proposed letter to him from our office is enclosed for your approval as well.

Please let me know if you have any changes or questions after reviewing this form of Agreement. Please note in your review that this Agreement does not obligate you to pay any money in order to obtain the commitment of confidentiality you require. It will undoubtedly be necessary to negotiate separate terms for payment of manufacturing costs and market planning and research, but I will

Nick Baida  
Page 2  
September 22, 2000

leave that to Mr. Bohnengel's company to raise as an issue, since it does not benefit you to outline any payment schedule for their services in this Agreement. You should feel free, however, to negotiate separately for the actual production costs, if any, and please don't hesitate to contact me if you have any questions when doing so.

Thank you for entrusting this matter to us for handling. I look forward to hearing from you with any proposed modifications.

Best regards,

  
Jeffrey H. Boller

JHB:ch  
Enclosures